



Town Council Agenda Report

SUBJECT: Ordinance

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE III OF THE TOWN CODE BY ADDING THERETO SECTION 2-43 ENTITLED "DUTIES OF COUNCILMEMBERS"; REITERATING AND CLARIFYING DUTIES PROVIDED FOR BY LAWS OF THE STATE OF FLORIDA AND THE CHARTER OF THE TOWN OF DAVIE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF:

Amending the Code of the Town of Davie by adding to Chapter 2, Article III, a new section to read as follows: The Town Council powers and duties as set forth in Section 7(C) of the Town Charter shall include, but not be limited to, Councilmembers serving on all boards upon appointment by the Town Council, including, but not limited to, pension or retirement boards; unless otherwise prohibited by law.

PREVIOUS ACTION: Not applicable.

CONCURRENCES: Not applicable.

FISCAL IMPACT: Not applicable.

RECOMMENDATION(S):

Motion to approve the ordinance.

Attachment(s):

Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE III OF THE TOWN CODE BY ADDING THERETO SECTION 2-43 ENTITLED "DUTIES OF COUNCILMEMBERS"; REITERATING AND CLARIFYING DUTIES PROVIDED FOR BY LAWS OF THE STATE OF FLORIDA AND THE CHARTER OF THE TOWN OF DAVIE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2(b) of the Florida Constitution grants powers to municipalities to enable them to conduct municipal government, perform municipal functions and municipal services, and authorizes municipalities to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Section 1 of the Charter of the Town of Davie entitled "Creation and powers" provides as follows:

"Sec. 1. Creation and powers.

The Town of Davie created by Special Acts, Chapter 61-2056, § 6, Laws of Florida, shall continue and is hereby vested with the governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services and may exercise any power for municipal purposes not expressly prohibited by the Constitution, general or special law or county charter."

and

WHEREAS, Section 3 of the Town Charter entitled "Powers and limitations" provides in part as follows:

"The town shall have all the powers and privileges granted generally to municipalities by the Constitution and general laws of the State of Florida, the same as if said powers and privileges were herein recited in full; together with all of the implied powers necessary to carry into execution all of the powers granted; and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the town shall have and may exercise all powers which under the Constitution of this state it would be competent for this Charter specifically to enumerate save only the extent that such powers are specifically limited by this Charter."

and

WHEREAS, Section 7 of the Town Charter provides in subsection (C) that all legislative powers of the town shall be exclusively vested in the council and shall be exercised by it in the manner subject to the limitations herein set forth; and

WHEREAS, Section 7(C) furthermore provides that in addition to exercising its general legislative powers and specific powers enumerated therein, that council has the power to take such other actions as it deems necessary and are consistent with this Charter and the laws of the State of Florida; and

WHEREAS, the Town Council as legislative body of the Town has in the past appointed members of the Council to sit as representative of the Town Council on various boards including, but not limited to,

WHEREAS, a question has been raised as to whether the appointment to the boards including retirement boards constitutes an ex-officio duty of the Councilmember so appointed; and

WHEREAS, the Town Council wishes to reiterate and clarify that said appointments do, in fact, constitute ex-officio duties of the appointed Councilmember.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the Code of the Town of Davie is hereby amended by adding to Chapter 2, Article III, a new section to be numbered 2-43, which shall read as follows:

Sec. 2-43. Council powers and duties.

The Council powers and duties as set forth in Section 7(C) of the Town Charter shall include, but not be limited to, Councilmembers serving on all boards upon appointment by the Town Council, including, but not limited to, pension or retirement boards; unless otherwise prohibited by law.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 1999.

PASSED ON SECOND READING THIS ____ DAY OF _____, 1999.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 1999.